

DETERMINATION OF DEVELOPMENT APPLICATION

P E N R I T H C I T Y C O U N C I L

DESCRIPTION OF DEVELOPMENT

DA No.	DA12/1269
Description of development	Air Conditioning Units & Associated Roof Platform
Classification of development	The classification of the building(s) forming part of this consent is as follows: <ul style="list-style-type: none">▪ Class 10b

DETAILS OF THE APPLICANT

Name & Address	D. Modra C/- James & Scott Air 30 Prince William Drive SEVEN HILLS NSW 2147
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NOTES

1. Your attention is drawn to the attached conditions of consent in Attachment 1.
2. You should also check if this type of development requires a Construction Certificate in addition to this development consent.
3. It is recommended that you read the Advisory Note enclosed with this consent.

DETAILS OF THE LAND TO BE DEVELOPED

Legal Description: Lot 1 DP 1137699
Property Address: Westfield Penrith, 569-595 High Street, PENRITH NSW 2750

DECISION OF CONSENT AUTHORITY

In accordance with Section 81(1)(a) of the Environmental Planning and Assessment Act 1979, consent is granted subject to implementation of the conditions in Attachment 1.

Date from which consent operates 21 February 2013
Date consent expires 21 February 2015
Date of decision 13 February 2013

Please note that this consent will lapse on the expiry date unless the development has commenced in that time.

REVIEW OF DETERMINATION & RIGHTS OF APPEAL

1. The applicant may request Council to review its determination pursuant to Section 82A of the Environmental Planning and Assessment Act 1979 within six (6) months of receiving this Notice of Determination.

You cannot make this request if the development is Designated Development, Integrated Development or State Significant Development.

2. The applicant can appeal against this decision in the Land and Environment Court within six (6) months of receiving this Notice of Determination.

You cannot appeal if a Commission of Inquiry was held for the subject Development Application or if the development is a State Significant Development.

3. If a written objection was made in respect to an application for Designated Development, the objector can appeal against Council's decision to the Land and Environment Court within 28 days after the date of this Notice. The objector cannot appeal if a Commission of Inquiry was held.

If the applicant appeals against Council's decision, the objector(s) will be given a notice of the appeal and the objector(s) can apply to the Land and Environment Court within 28 days after the date of this appeal notice to attend the appeal and make submissions at that appeal.

REASONS

The conditions in the attached schedule have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instrument.
- To ensure that no injury is caused to the existing and likely future amenity of the neighbourhood.
- Due to the circumstances of the case and the public interest.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.

POINT OF CONTACT

If you have any questions regarding this consent you should contact:

Assessing officer	Kate Smith Trainee Environmental Planner
Contact telephone number	(02) 4732 7705

SIGNATURE

Name	Robert Craig Principal Planner
Signature	

For the Development Services Manager

ATTACHMENT 1: CONDITIONS OF CONSENT

GENERAL

- 1 The development must be implemented substantially in accordance with the stamped-approved plans issued by Penrith City Council, the application form and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.
- 2 **The development shall not be used or occupied until an Occupation Certificate has been issued.**
- 3 A **Construction Certificate** shall be obtained prior to commencement of any building works.
- 4 To minimise the visual impact of the air conditioning units, a suitable screen shall be provided around the units to ensure that they cannot be viewed from any public spaces. The colour and materials of the screen shall complement and blend with the external facade of the western elevation of the building. Details of compliance shall be provided **prior to the issue of a Construction Certificate.**
- 5 The air conditioning units and associated structures shall be positioned a minimum of 2m from the western edge of the building. Details of compliance shall be provided **prior to the issue of a Construction Certificate.**

ENVIRONMENTAL MATTERS

- 6 All material and wastes generated as a result of the development are to be re-used, recycled or disposed of at a lawful waste management facility. All receipts and supporting documentation must be retained in order to verify lawful disposal of materials and are to be made available to Penrith City Council on request.
- 7 The operating noise level of the air conditioning units shall not exceed 5dB(A) above the background noise level when measured at the boundaries of the premises. The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.
- 8 **Prior to the issue of an Occupation Certificate**, written confirmation and photographic evidence shall be provided to Council confirming that the existing water cooling towers have been decommissioned and removed from the site.
- 9 The existing cooling towers shall be drained into the sewer during decommissioning.

BCA ISSUES

- 10 The owner of a building, to which an essential fire safety measure is applicable, shall provide Penrith City Council with an annual fire safety statement for the building. The annual fire safety statement for a building must:
 - (a) deal with each essential fire safety measure in the building premises, and
 - (b) be given:
 - within 12 months after the last such statement was given, or

- if no such statement has previously been given, within 12 months after a final fire safety certificate was first issued for the building.

As soon as practicable after the annual fire safety statement is issued, the owner of the building to which the statement relates:

- must also provide a copy of the statement (together with a copy of the current fire safety schedule) to the Commissioner of New South Wales Fire Brigades, and
- prominently display a copy of the statement (together with a copy of the current fire safety schedule) in the building.

- 11 All aspects of the building design shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

- (a) complying with the deemed to satisfy provisions, or
- (b) formulating an alternative solution which:
 - complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

It is the owner's responsibility to place on display, in a prominent position within the building at all times, a copy of the latest fire safety schedule and fire safety certificate/statement for the building.

CERTIFICATION

- 12 Prior to the commencement of any earthworks or construction works on site, the proponent is to:

- a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act and accompanying Regulation, and
- b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

- 13 An Occupation Certificate is to be obtained from the Principal Certifying Authority on completion of all works and prior to the use of the air conditioning units.

The Certificate shall not be issued if any conditions of this consent, but not the conditions relating to the operation of the development, are outstanding.

A copy of the Occupation Certificate and all necessary documentation supporting the

issue of the Certificate is to be submitted to Penrith City Council, if Council is not the Principal Certifying Authority.

Robert Craig

Signature

For the Development Services Manager